

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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FELIPE GUTIERREZ, JR.,	:	CASE NO. 3:11 CV 01707
	:	
Petitioner,	:	
	:	<u>MEMORANDUM AND ORDER</u>
-vs-	:	<u>ADOPTING THE MAGISTRATE</u>
	:	<u>JUDGE'S REPORT AND</u>
	:	<u>RECOMMENDATION AND</u>
RHONDA RICHARD, Warden,	:	<u>DISMISSING IN PART AND DENYING</u>
	:	<u>IN PART THE PETITIONER'S</u>
	:	<u>PETITION</u>
Respondent.	:	
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UNITED STATES DISTRICT JUDGE LESLEY WELLS

On 15 August 2011, the petitioner Felipe Gutierrez, Jr., filed a petition for the Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Doc. 1). On 8 November 2011, this matter was referred to United States Magistrate Judge William H. Baughman, Jr., for report and recommendation. (Doc. 3). On 5 August 2013, after the petition was briefed, the Magistrate Judge issued an R&R advising that the petition be dismissed in part and denied in part. (Doc. 11). The parties were given 14 days to file objections. The Magistrate Judge stated that “[f]ailure to file objections within the specified time waives the right to appeal the District Court’s order.” No objections were filed.

Pursuant to 28 U.S.C. § 636(b)(1), this Court makes a de novo determination of those portions of the R&R to which a timely objection is made. “When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face

of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) advisory committee’s note. Therefore, having reviewed Magistrate Judge Baughman’s report and recommendation and found it well-reasoned and without error, the Court adopts it in its entirety. Mr. Gutierrez’s petition for the Writ of Habeas Corpus is accordingly dismissed in part and denied in part as set forth in the report and recommendation. The Court further certifies that an appeal from this decision could not be taken in good faith and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed.R.App.P. 22(b).

IT IS SO ORDERED.

/s/ Lesley Wells
UNITED STATES DISTRICT JUDGE

Date: 17 September 2013